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19
20 **UNITED STATES BANKRUPTCY COURT**
21 **DISTRICT OF NEVADA**

22
23 In re
24 MUSCLEPHARM CORPORATION,
25
26 Debtor.

27 Case No.: 22-14422-NMC
28 Chapter 11

29
30 **NOTICE OF ISSUANCE OF SUBPOENA**
31 **FOR DOCUMENT PRODUCTION OF**
32 **GOOGLE LLC**

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34 PLEASE TAKE NOTICE that Ryan Drexler, by and through his undersigned counsel,
35 hereby provides notice of the issuance of a subpoena for document production on Google LLC.
36 A copy of the subpoena is attached hereto as Exhibit 1.

37
38 Dated this 7th day of July, 2023.

39
40 **STEINHILBER SWANSON LLP**

41
42 By: /s/ Michael P. Richman
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13 *Counsel for Ryan Drexler*
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EXHIBIT 1

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT

District of NEVADA

In re MUSCLEPHARM CORPORATION

Debtor

(Complete if issued in an adversary proceeding)

Case No. 22-14422-NMCChapter 11

Plaintiff

v.

Adv. Proc. No. _____

Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)To: GOOGLE LLC, C/O CORPORATION SERVICE COMPANY, 112 NORTH CURRY STREET, CARSON CITY, NV, 89703

(Name of person to whom the subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: requested on Exhibit A hereto, subject to the definitions and instructions set forth therein.

PLACE	DATE AND TIME
Brian D. Shapiro, Esq., 510 S. 8th St., Las Vegas, NV 89101	July 24, 2023 at 9:00 a.m. (Pacific Time)

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: July 7, 2023

CLERK OF COURT

OR

/s/ Michael P. RichmanSignature of Clerk or Deputy ClerkAttorney's signatureThe name, address, email address, and telephone number of the attorney representing (*name of party*)

Ryan Drexler, who issues or requests this subpoena, are:

Michael P. Richman, Esq., 122 W. Washington Ave., Suite 850, Madison, WI 53703, mrichman@steinhilberswanson.com, 608-630-8990

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE**(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)**

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____.

I served the subpoena by delivering a copy to the named person as follows: _____

on (*date*) _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

- (i) is a party or a party's officer; or
- (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...

(g) *Contempt.* The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

DEFINITIONS

These definitions shall apply to all instructions and responses to the below Requests for Production.

1. “Communication(s)” shall mean, without limitation, any transmittal, conveyance or exchange of a word, statement, fact, thing, idea, Document, instruction, information, demand, question or other information by any medium, whether by written, oral or other means, including but not limited to personal conversations, written correspondence, memoranda, letters, reports, publications, electronic communications, text messaging, instant messaging, messages via social media and electronic mail.

2. “Date” means the exact day, month, and year, if known, or if not known, your best approximation thereof. Exact dates shall be given in all answers except where it is explicitly indicated that an approximate date may be given.

3. “Debtor” shall mean MusclePharm Corporation, the debtor in the Chapter 11 case of *In re MusclePharm Corporation*, Case No. 22-14422-NMC (“Bankruptcy Case”), pending in the United States Bankruptcy Court District of Nevada (the “Bankruptcy Court”), and any Affiliate or Insider thereof and its agents, servants, employees, attorneys, accountants representatives, any other Person or Entity over which it has control or has a superior right to compel to do an act or produce an item.

4. “Document” is intended to be as broad as it is used in FRCP 26 and 34, and includes, without limitation:

a. the original (or an identical duplicate if the original is not available) and any non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind) of writings of every kind and description that are fixed in any kind of physical media

b. any printed, typewritten, handwritten, electronic, or otherwise recorded matter of whatever character of communications, letters, correspondence, electronic mail, text messages, instant messages, memoranda, notes, Post-Its, media releases or articles, photographs, tape or sound recordings, contracts, agreements, telephone records, diaries, desk calendars, appointment calendar, group scheduler calendars, statements, reports, journal, minutes, working paper, financial report, accounting report, work papers, facsimile, facsimile transmission, drafts, logs, chart, graph, index, directory, scheduling data, databases, spreadsheets, presentations, word processed documents, bulletins, design schedules, supplemental instructions, time cards, drawings, shop drawings, progress payments, progress schedules, estimates, equipment time cards, design calculations, design meeting minutes, coordination meeting minutes, and material

1 similar to any of the foregoing, however denominated and to whomever addressed,
2 computer directory, computer disk, computer tape, or any written, printed, typed,
3 punched, taped, filmed, or graphic matter however produced or reproduced.
4 Documents also include the file, folder tabs, and labels appended to or containing
any documents

5 c. For the avoidance of doubt, electronically-stored information with all
6 metadata intact shall be produced whenever available in the format described
below.

7 5. "Person" shall mean any natural person, trust, Entity, association of entities and/or
8 natural persons, and/or governmental body.

9 6. "Petition Date" means December 15, 2022.

10 7. "You" or "Your" means Google LLC and Your agents, servants, employees,
11 attorneys, accountants, representatives, any other Person or Entity over which You have control or
12 have a superior right to compel to do an act or produce an item, and any Entity You were or are an
agent, manager, officer, or director or otherwise maintained or maintain a supervisory, advisory, or
consulting role.

13 INSTRUCTIONS

14 1. You shall produce all responsive Documents and Communications in electronic
15 format to mjurkash@steinhilberswanson.com.

16 2. You shall produce documents in response to the requests below in accordance with
17 the Federal Rules of Civil Procedure, applicable in this contested matter by way of the Federal
18 Rules of Bankruptcy Procedure

19 3. Pursuant to Federal Rule of Civil Procedure 34(b)(1)(C), in response to each of the
20 requests below, electronically stored information is to be produced in a reasonably usable format
21 together with a description of the system from which such information was derived sufficient to
22 permit rendering the records and information intelligible. With the exception of electronically
23 stored information produced in native format, electronically stored information shall be produced
24 as TIFF or PDF images and must be produced with extracted text and metadata reflecting at least
25 the title, author, creation date, modification date, and custodian of such information (and for email
correspondence, also the from, to, cc, bcc, sent date and time, and email subject fields) and also
with a load file showing the logical unitization of documents and family member groupings. Excel
spreadsheets, multimedia, and other similar files (e.g., .csv files) must be produced in native
format.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1. Produce all documents and communications sufficient to identify all account “Activity” for the Gmail account bloomwendy452@gmail.com, including but not limited to Access Type, Location (IP address) and Date/Time, from January 1, 2023 to the present.

REQUEST FOR PRODUCTION NO. 2. Produce all documents and communications sufficient to identify the Internet Protocol address for any computer accessing the Gmail account bloomwendy452@gmail.com and their dates and times of access from January 1, 2023 to the present.

REQUEST FOR PRODUCTION NO. 3. Produce all documents and communications sufficient to identify when the email address bloomwendy452@gmail.com was created and by whom.

REQUEST FOR PRODUCTION NO. 4. Produce all documents and communications sufficient to identify all account information for bloomwendy452@gmail.com, including any recovery information submitted by the account applicant.

REQUEST FOR PRODUCTION NO. 5. Produce all documents and communications sent to You regarding bloomwendy452@gmail.com.